

JOB NO. [] BOX NO. [] FILE NO. []
 RE CLASS [] REV CLASS [] AUTH: HR 70-3
 NO. 3803 CREATION DATE [] CHG COM []
 REV CLASS [] REV COORD. []

9 March 1960

The Honorable Joseph Campbell
 Comptroller General of the
 United States
 Washington 25, D. C.

Dear Mr. Campbell:

Your opinion is respectfully requested with reference to the [] payment of the [] of the [] Central Intelligence Agency for the transfer on permanent change of station from Saigon, Vietnam, to Washington, D. C.

Travel Order [] dated 30 December 1957, copy of which is attached, authorizing the travel of [] and his wife, indicated a maximum shipment of household effects of 4500 pounds. Actually 4900 pounds were shipped from Saigon to Washington, D. C., via New York, and 3118 pounds were shipped from [] to Washington via Baltimore.

In an opinion by the General Counsel of the Central Intelligence Agency, dated 11 June 1959, it was held that an arbitrary limitation of the shipment of household effects to 4500 pounds was improper, being due to an erroneous interpretation of the applicable regulation. This regulation in fact provides for the shipment of 13,500 pounds for an employee in the circumstances []. Payment for the shipment in excess of 4500 pounds rests on our opinion that the statement in the Travel Order should not affect the basic maximum entitlement granted in the regulation, there being no discretion on the part of the authorizing officer to vary that entitlement.

As a matter of background, the pertinent statutory provision is contained in section 4(a)(1)(c) of the Central Intelligence Agency Act of 1949, as amended, (63 Stat. 208, 50 USC 403a (1958), PL 81-110) which reads in pertinent part as follows:

"Under such regulations as the Director may prescribe, the Agency, with respect to its officers and employees assigned to permanent duty stations outside the continental United States, its territories, and possessions, shall pay the cost of transporting the furniture and household and personal effects of an officer or employee of the Agency to his successive posts of duty" (Emphasis supplied.)

Paragraph 3b(1) [] provides in pertinent part as follows:

"b. DETERMINATION OF ALLOWANCES

The amount of effects which may be transported or stored at Government expense is determined as follows:

(1) When an employee is assigned to a station in an overseas area, the maximum amount of effects which may be transported or stored at Government expense shall be determined by the employee's General Schedule (GS) grade, or equivalent, and by whether or not dependents are authorized to accompany him to his station. (See paragraphs 3a and b below.)" (Emphasis supplied.)

Paragraph 3b referred to provides for a limitation of 4500 pounds on shipments of household effects under certain conditions to overseas areas only. This limitation does not apply to shipments in connection with return travel FCS to the United States such as in the case of [] This was pointed out in the decision of the General Counsel of this Agency, dated 11 June 1979, previously referred to, wherein it was further clearly stated that the governing provision in the case of returnees is paragraph 3a of the regulation. This reads in pertinent part as follows:

"3. WEIGHT AND VOLUME LIMITATIONS

a. Maximum Allowable - Overseas Areas

With respect to employees assigned to permanent-duty posts overseas when furnished quarters are not provided by the Government:

(1) The maximum weight and volume of effects which may be shipped or stored at Government expense are listed in Table I below. The allowances shown include the gross weight or volume of all containers, but no reduction shall be made when effects are shipped without containers"

The Table shows that employees GS-9 through GS-12 with dependents are authorized a maximum weight of 13,500 pounds to be shipped or stored at Government expense. [] who was a GS-11, had no effects in storage and thus his total weight shipment of some 7618 pounds is obviously well within the permissible limit.

Payment has been made on behalf of the Government for the full amount of [] shipment. It is our conclusion that this is proper on the grounds that the indication of weight limitation in [] original Travel Order was in error, that there was no administrative

discretion involved on the part of the authorizing officer to vary the regulatory entitlement, and that [] was entitled to payment on his behalf by the Government for any amount shipped up to the maximum set forth in paragraph 5a of the regulation issued pursuant to law. Your opinion would be appreciated.

If any further assistance is needed contact may be had with the undersigned []

[]
Authorized Certifying Officer

Attachments:
Travel (2)

GEP/mjr (Written by [] Gen. Counsel in rough draft. Typed in final
Distribution: form in Office of Chief, Fiscal)

- Orig. & 1 - Addressee
1 - General Counsel
1 - Fiscal Division ✓
2 - Travel Branch